IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2268 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AHMEDABAD NEW TEXTILE MILLS - Petitioner(s)

Versus

TEXTILE LABOUR ASSOCIATION - Respondent(s)

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Appearance :

MR SHUKLA for NANAVATI & NANAVATI for Petitioner No(s).: 1.

MR DS VASAVADA for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 13/07/2005

ORAL JUDGMENT

1.0 The petitioner Mill has challenged the order dated 23.12.1998 passed by the Industrial Court, Ahmedabad, in

Reference (IC) No. 57 of 1993, whereby the said reference was allowed.

2.0 The brief facts of the case are that Mr. Lalitbhai H. Parmar was selected for the Post of Semi-Clerk in the petitioner Mill and on successful completion of training, he was designated as a Junior Clerk in the S.Q.C. Department of the petitioner Mill vide appointment order dated 01.04.1982.

2.1 It is the case of the petitioner that as per the terms of the order dated 01.04.1982, which was also accepted by the said workman, the workman can be transferred from one Department to another Department of the petitioner Mill.

2.2 On 06.12.1989 the petitioner Mill and the respondent Union arrived at an Agreement about the strength of the S.Q.C. Department. It is the further case of the petitioner that since the workman herein was working in the S.Q.C. Department, he is covered by the said Registered Agreement.

2.3 The National Textile Corporation run Mills' Technical and Officers Staff Union (Gujarat) had preferred a petition before this Court being Special Civil Application No.3552 of 1981 against the National Textile Corporation (Gujarat)

Ltd and the petitioner Mills and other textile units of the Corporation for granting the benefits of Third Pay Commission and other benefits to the employees working in the technical, supervisory and managerial cadres in the Mill Units under the National Textile Corporation (Gujarat) Ltd.. However, the parties arrived at a compromise and a Compromise Pursis was filed on 01.10.1990. On the basis of the said settlement, the petition was permitted to be withdrawn vide order dated 01.10.1990.

2.4 On 17.09.1992, the respondent Union gave Notice of Change to the petitioner Mill under the provisions of The Bombay Industrial Relations Act, 1946 demanding to give the workman the Post and salary of Investigator from the date from which the concerned employee was working as an Investigator. Since no settlement was arrived at, the respondent Union raised a dispute, which ultimately, came to be referred to the Industrial Court, Ahmedabad by way of a Reference.

2.5 The Industrial Court vide impugned award dated 23.12.1998 allowed the said reference preferred by the respondent Union in respect of Mr. Lalitbhai H. Parmar and directed the petitioner Mill to give the Post of Investigator and pay wages as Investigator w.e.f 1981 to

the workman. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the impugned award of the Industrial Court, it transpires that the Industrial Court has not considered two important documents, i.e the Compromise Pursis filed between the parties before this Court in the petition being Special Civil Application No. 3552 of 1981 and the Written Statement filed by the petitioner Mill. The Industrial Court has passed the impugned award without considering the aforesaid two documents. Hence, the matter is required to be remanded to the Industrial Court for adjudication afresh.

4.0 In above view of the matter and with the consent of the learned counsel for the parties, the impugned order dated 23.12.1998 passed by the Industrial Court, Ahmedabad, in Reference (IC) No. 57 of 1993 is quashed and set aside. The matter is remanded to the Industrial Court for adjudication afresh. While adjudicating the matter afresh, the Industrial Court shall keep in mind the evidence produced on record by both the sides and the documents referred to herein above. It is clarified that if either of the parties is desirous to produce any additional document

on record, they shall do it on or before 01.08.2005. The Industrial Court, Ahmedabad shall hear the matter and dispose of the same, as expeditiously as possible, and preferably within a period of six months from the receipt of writ of this order. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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